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**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK**

CRISTHIAN DIAZ, on behalf of himself and
all others similarly situated,

Case No.: 1:16-cv-06349-NGG-SMG

Plaintiff,

**DECLARATION OF
REBECCA ANDRYSIK**

-against-

LOBEL'S OF NEW YORK, LLC,

Defendant.

I, Rebecca Andrysiak, do hereby declare pursuant to 28 U.S.C. §1746 as follows:

1. I am the Director of Marketing Communications and Ecommerce for Lobel's of New York, LLC ("Lobel's"). I have worked for Lobel's since 2004, and have been the Director of Marketing Communications and Ecommerce since 2014. I make this Declaration based upon my personal, firsthand knowledge of the facts stated herein. This Declaration is respectfully submitted in response to the January 17, 2018 audit by ADASure Digital Consultancy of the website www.lobels.com (the "website").

2. I have reviewed the "ADA & WCAG 2.0 Website Compliance Audit" dated January 17, 2018, which was prepared by ADASure Digital Consultancy. The report claims that there are ten (10) "errors" out of the nearly 1,000 webpages that comprise the website. As shown below, the alleged "errors" either do not discriminate against visually impaired persons, and/or

do not preclude a visually impaired person from accessing the website.

3. There are eight (8) alleged errors that apply equally to sighted people (using a mouse to navigate the website) and visually impaired people (using a keyboard and a screen reader to navigate the website):

- a. "Error" 10 claims that indicators, such as an asterisk to denote required fields, are missing. The indicators are missing from the website itself, such that the missing indicators apply to all users of the website, regardless of whether the user is using a mouse or is using a keyboard and a screen reader;
- b. "Error" 11 claims that the "Refer a Friend" link is not providing meaningful data in the Internet Explorer browser. If this were true, it would be a hindrance to everyone, not just the visually impaired, and would not be discriminatory. Nonetheless, on January 23, 2018, I visited this page using the Internet Explorer browser, and the page displayed.
- c. "Error" 13 claims that the page title for the "Refer a Friend" page is incorrect, because the page title does not describe that the user is present on the "Refer a Friend" page. Again, to the extent that the page title for the "Refer a Friend" page is incorrect, the error, or the lack of usefulness, applies to all users of the website, not just the visually impaired that use screen readers.
- d. "Error" 14 claims that users are directed to a 404 error page after clicking on the "American Wagyu Beef thickness chart" link. Every website that is ever existed has 404 error pages, which are a hindrance to everyone, not just the visually impaired using screen readers. A visually impaired person using a screen reader will be denied access to pages that have 404 errors as much as a

sighted person will be denied access to those pages.

- e. “Error” 15 claims that validation messages are not available for the fields which are mandatory. The lack of validation messages is not specific to persons using a screen reader, but applies to all users of the website.
- f. “Error” 16 claims that the hyperlink is not available for the “Feedback Form” link. The unavailability of the hyperlink applies to all users of the website, including those using screen readers and those who are not using screen readers. Nonetheless, the hyperlink has been fixed as of the date of this Declaration.
- g. “Error” 23 claims that images of text are present. The images of text are present for all users of the website. And, the website provides text captions and “alt text” for the images so that visually impaired users can access them through their screen readers.
- h. “Error” 25 claims that an error message is not available when a user enters an invalid email address format. Again, this applies to all users of the website and is not an “error” that applies only when persons are using screen readers.

Accordingly, the foregoing eight (8) “errors” are not discriminatory because they apply equally to all users of the website.

4. The remaining two (2) “errors” claimed in the report (12 and 24) do not prevent visually impaired users from accessing the website. First, even if the search icon is not accessible by keyboard, a visually impaired person using the website still has access to the webpages contained in the website. And second, a visually impaired person using a keyboard can use the tab buttons on his or her keyboard to navigate the keyboard focus function, so any

missing slider icons will not affect any person's ability to use the keyboard focus functions.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

Executed on January 26, 2018 at Chicago, Illinois.


Rebecca Andrysiak